BEFORE THE ARIZONA EINFORATION COMMISSION

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Arizona Corporation Commission DOCKETED

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IN THE MATTER OF ARIZONA PUBLIC DOCKET NO. E-01345A-10-0394 SERVICE COMPANY REQUEST FOR

APPROVAL OF UPDATED GREEN POWER RATE SCHEDULE GPS-1, GPS-2, AND GPS-3.

IN THE MATTER OF THE APPLICATRION OF ARIZONA PUBLIC SERVICE COMOANY FOR APPROVAL OF ITS 2013 RENEWABLE ENERGY STANDARD IMPLEMENTATION

FOR RESET OF RENEWABLE ENERGY

RENEWABLE ENERGY ADJUSTOR.

ADJUSTOR.

IN THE MATTER OF THE APPLICATION OF TUCSON ELECTRIC POWER COMPANY FOR APPROVAL OF ITS 2013 RENEWABLE **ENERGY STANDARD IMPLEMENTATION PLAN AND** DISTRIBUTED ENERGY ADMINISTRATIVE PLAN AND REQUEST FOR RESET OF ITS

IN THE MATTER OF THE APPLICATION OF UNS ELECTRIC, INC. FOR APPROVAL OF ITS 2013 RENEWABLE ENERGY STANDARD IMPLEMENTATION PLAN AND DISTRIBUTED **ENERGY ADMINISTRATIVE PLAN AND** REQUEST FOR RESET OF ITS RENEWABLE

ENERGY ADJUSTOR.

DOCKET NO. E-01345A-12-0290

DOCKET NO. E-01933A-12-0296

DOCKET NO. E-04204A-12-0297

OPENING BRIEF

Kevin Koch hereby files his opening brief in the above captioned matter. This brief will address the "Track and Record" proposals and the various other alternatives brought up in testimony and at the hearing.

Phoenix, Arizona 85016

INTRODUCTION

As part of its 2013 RES plan, Arizona Public Service ("APS") requested that it use a method of "track and record" to ensure compliance with the RES rules as it relates to the Distributed Renewable Energy ("DE") requirement. In Decision # 73636, The Arizona Corporation Commission ("ACC") directed the Hearing Division to "hold a hearing and prepare a Recommended Opinion and Order ("ROO") for Commission consideration on the Track and Record Proposal and potential alternatives." In a procedural order dated February 15, 2013, the ALJ consolidated dockets of APS, Tucson Electric Power ("TEP") and UNS Electric ("UNS") (Collectively the "Utilities") and set a hearing for Track and Record. The hearings were held in June of 2013 at the Commission's office in Phoenix. Kevin Koch, a longtime advocate of solar energy in Southern Arizona, participated through counsel at the hearings.

SUMMARY OF POSITION

It was established through pre-filed testimony and testimony at the hearing that there are potentially several ways for the Utilities to meet the RES rules requirement, specifically the DE carve out, without going through the process of changing the RES rules. It is in the best interest of the Utilities as well as other stakeholders, including Mr. Koch, to have certainty in how the RES rules will be implemented. A rule making provides the least amount of certainty and potentially is the most time consuming and lengthy of all options presented. While there was extensive discussion on what constitutes as double counting of Renewable Energy Credits,

¹ Decision No 73636 page 6 lines 8-11. The Commission came to the same result in Decision No. 73637 for Tucson Electric Power and in Decision No 73638 for UNS Electric.

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Mr. Koch will not take a position on that issue at this time but will reserve the right to do so in the reply brief if needed.

OPENING OF THE RES RULES

It has been APS' position since they first filed testimony in this matter that the RES rules must be amended.² APS contends there will be, at some point in the future, a time when incentives are no longer needed for DE solar.³ While APS has recommended that the REST rules be changed to eliminate the DE carve out⁴, the company's witness was not familiar with the process of a rule making at the ACC.⁵ Additionally, APS has not even suggested proposed rule changes.⁶ APS' simplistic approach of advocating for a rule change does not take into account the resources of the Commission or of the interested parties that would be necessary to change the RES rules.

As shown through TEP's witness, Mr. Tilghman, rulemakings at the ACC can be a long cumbersome process that may not accomplish what APS was first advocating for. Mr. Tilghman testified that the original rulemaking for the Renewable Energy Standards lasted for 2 ½ years. He went on further to discuss how the resources required for a rulemaking are more extensive than other options that were put forth, even one option raised by TEP. He was a long cumbersome process that may not accomplish what APS was first advocating for. Mr.

The proposal put forth by APS doesn't take into account that other utilities are not in the same position as APS as it relates to DE compliance. Bob Gray, testifying on behalf of Staff, stated that "some utilities are not ahead or very far ahead" of DE compliance targets. ¹⁰

² Ex. APS-1 at 3, 6-7.

³ Id. At 2, 11-12.

⁴ Id. At 6, 25-26.

⁵ TR Vol 1 at 63- 64, 25 -1.

⁶ Id. at 62, 22-25.

⁷ TR Vol 1 at 172 – 173.

^{|| 8} Id. at 173, 10-12.

⁹ Id. at 16-25.

¹⁰ TR. Vol. IV at 693, 20-22.

While APS contends it is so far ahead of the DE compliance, clearly other utilities are not. Changing the RES rules because APS has determined that they are in compliance does not comport with the stated intent of the RES rules nor is it in the public interest.

Opening up the rules to address an issue that can be as easily addressed without a rule change is not an effective use of Commission and other interested parties resources or time.

APS' need for certainty in complying with the RES Rules can be accomplished in a variety of manners that do not require a rulemaking.

OTHER PROPOSALS THAT DO NOT REQUIRE A RULEMAKING

There have been several parties, including Staff, RUCO and TEP who raised alternative solutions that do not require a rule change. While this brief will not attempt to pick which one of these alternatives should be adopted by the Commission, Mr. Koch would support a method of allowing the Utilities to achieve compliance that does not require a rulemaking and reserves the right to address the other parties alternatives' in his reply brief.

CONCLUSION

As has been demonstrated above, there are several alternatives that are in the record of this proceeding that do not require any changes to the existing RES rules. Adopting APS' proposal of eliminating the DE carve out would not be in the public interest due to the reasons discussed above including resources of the parties, the issue not applying to all utilities that fall under the RES rule and other policy decisions.

¹¹ See Eg TEP -1 at 5, 13-15;

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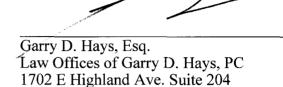
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RESPECTFULLY SUBMITTED this 27th day of August, 2013.



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